

City Council Introduction: **Monday**, December 8, 2003
Public Hearing: **Monday**, December 15, 2003, at **1:30 p.m.**

Bill No. 03R-342

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 2042**, requested by Kwik Shop, Inc., for authority to sell alcoholic beverages for consumption off the premises, on property located at 2302 Cornhusker Highway.

STAFF RECOMMENDATION: Conditional approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 11/26/03
Administrative Action: 11/26/03

RECOMMENDATION: Conditional approval (8-0: Carlson, Duvall, Krieser, Larson, Marvin, Steward, Bills-Strand and Taylor voting 'yes').

FINDINGS OF FACT:

1. The staff recommendation to approve this request for authority to sell alcoholic beverages for consumption off the premises, with conditions, is based upon the "Analysis" as set forth on p.2-4, concluding that the licensed premises complies with all the applicable criteria for a special permit for the sale of alcohol, including being located in excess of 100' away from a residence, a residential district and a day care facility. This request complies with the requirements of the Zoning Ordinance and the Comprehensive Plan.
2. On November 26, 2003, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
3. On November 26, 2003, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend conditional approval, as set forth in the staff report dated October 12, 2003.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: December 1, 2003

REVIEWED BY: _____

DATE: December 1, 2003

REFERENCE NUMBER: FS\CC\2003\SP.2042

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for November 26, 2003 PLANNING COMMISSION MEETING

P.A.S.: Special Permit #2042

PROPOSAL: To allow the sale of alcoholic beverages for consumption off the premises.

CONCLUSION: The licensed premises complies with all the applicable criteria for a special permit for the sale of alcohol, including being located in excess of 100' away from a residence, a residential district, and a day care facility. This request complies with the requirements of the Zoning Ordinance and Comprehensive Plan.

<u>RECOMMENDATION:</u>	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Meints 1st Addition, Lancaster County, Nebraska

LOCATION: 2302 Cornhusker Highway

EXISTING ZONING: H-3 Highway Commercial

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North:	Vacant	H-3
South:	Commercial	H-3
East:	Salt Creek	H-3
West:	Commercial	H-3

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan designates commercial land uses in this area

ANALYSIS:

Overview: The plan for developing this site includes a convenience store, a covered fuel island, and a drive-thru car wash. This request is to allow the sale of alcohol for consumption off the premises from the convenience store.

1. SPECIAL PERMIT REQUIREMENTS PER LMC 27.63.685: Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1 and I-3 zoning districts upon the approval of a special permit. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions, which can be waived by the City Council:

(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code (LMC).

Paved parking is provided adjacent to the premises that complies with the requirements of LMC Section 27.67.020. Continued compliance with the requirements of LMC 27.67.020 will be reviewed at the time of building permits

(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under Section 27.63.680 of this code.

This application is for a special permit to allow for the sale of alcohol for consumption off the premises. Authorization for on-site consumption of alcohol is not being requested.

©) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, a residential district or residential use, or, if a lesser distance, must mitigate any adverse effects of the reduction in distance through landscaping, screening, or other methods approved by the Planning Director.

There are no day care facilities, residences or residential districts within 100' of the premises. The nearest residential district is located northwest of this site, in excess of 1,300' away.

(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.

Parking lot lighting is required to comply with the Design Standards for parking lot lighting (Design Standards Chapter 3.45, Section 3.8), and is subject to review at the time of building permits.

(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

A drive-through window is not shown as part of the convenience store.

(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

An amplified outside noise source is not proposed as part of this request.

(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.

The front door does not face a residential district, the nearest of which is in excess of 1,300' away.

(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.

Access to this site is from North 23rd Street which is not a residential street.

(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.

(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:

(1) Revocation or cancellation of the liquor license for the specially permitted premises; or

(2) Repeated violations related to the operation of the permittee's business.

Planning Commission review and City Council approval is required for this use.

2. DEPARTMENT RESPONSES:

POLICE: The Police Department has no objection to this request.

PUBLIC WORKS: Public Works has no objection to this request.

CONDITIONS:

Site Specific:

1. This approval permits the sale of alcohol for consumption off the premises as shown on the site plan.

General:

2. Before receiving building permits:
 - 2.1 The permittee shall have submitted a revised final plan with 5 copies.
 - 2.2 The construction plans shall comply with the approved plans.

Standard Conditions:

3. The following conditions are applicable to all requests:
 - 3.1 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.2 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

- 3.3 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

Brian Will
Planner

October 12, 2003

APPLICANT Kwik Shop, Inc.
734 East 4th Avenue
Hutchinson, KS 67501 (620) 669-8504

OWNER: Dillon Real Estate Company, Inc.
2800 East 4th Avenue
Hutchinson, KS 67501 (620) 663-6636

CONTACT: Bill Austin
301 South 13th Street Suite 400
Lincoln, NE 68508 (402) 476-1000

SPECIAL PERMIT NO. 2042

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

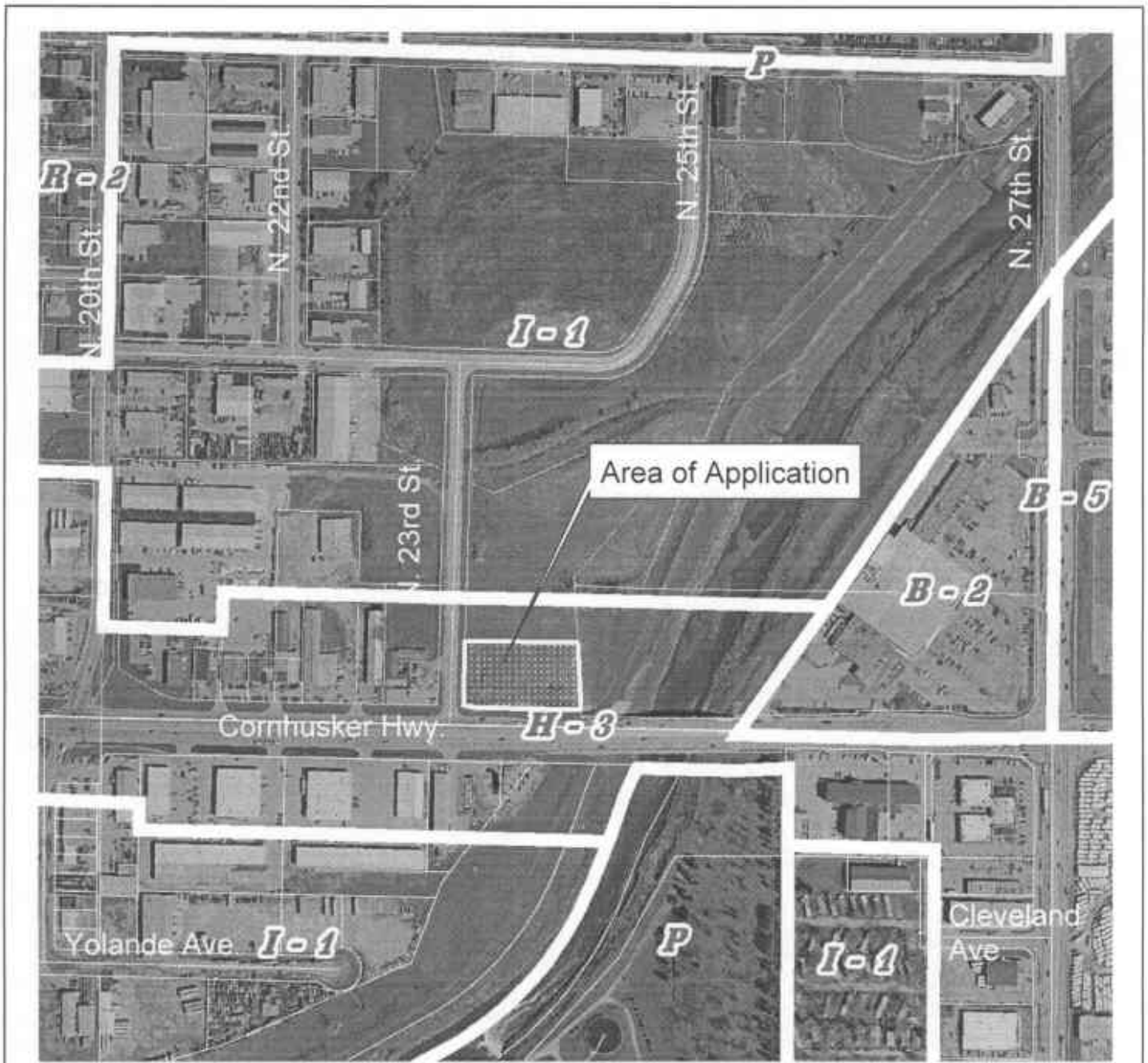
November 26, 2003

Members present: Carlson, Duvall, Krieser, Larson, Marvin, Steward, Bills-Strand and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3426, CHANGE OF ZONE NO. 3427, SPECIAL PERMIT NO. 1826A, SPECIAL PERMIT NO. 2026, SPECIAL PERMIT NO. 2042, USE PERMIT NO. 142A AND SPECIAL PERMIT NO. 2040.**

Bills-Strand moved to approve the Consent Agenda, seconded by Larson and carried 8-0: Carlson, Duvall, Krieser, Larson, Marvin, Steward, Bills-Strand and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 2026, Use Permit No. 142A and Special Permit No. 2040, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



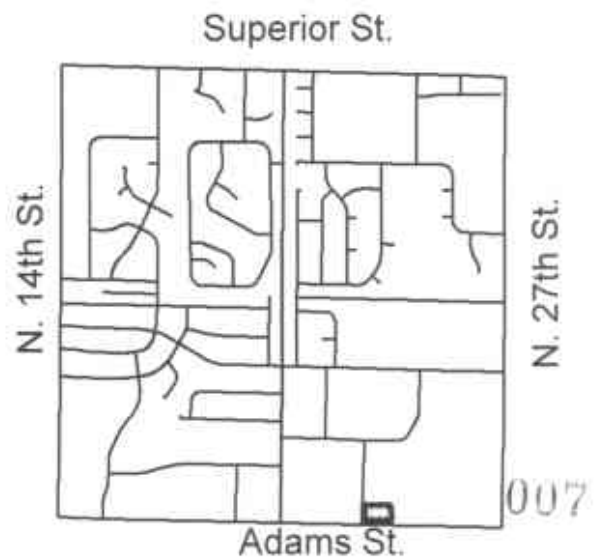
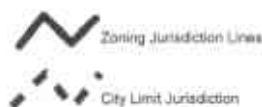
2002 aerial

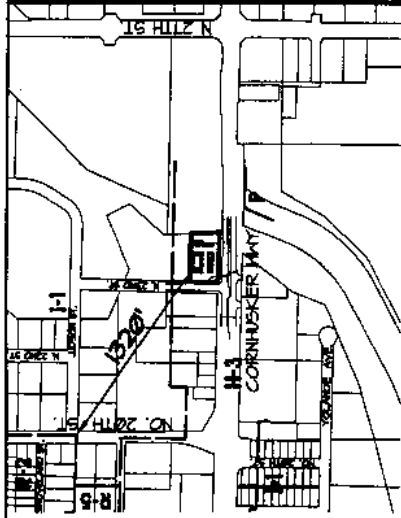
Special Permit #2042 2302 Cornhusker Hwy

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 12 T10N R6E





VICINITY MAP

NO SCALE



LEGAL DESCRIPTION

LOT 1, MEINTS 1ST ADDITION, LINCOLN,
LANCASTER COUNTY, NEBRASKA,
LOCATED IN THE SE 1/4 SEC. 12, T10N,
R6E

ZONING

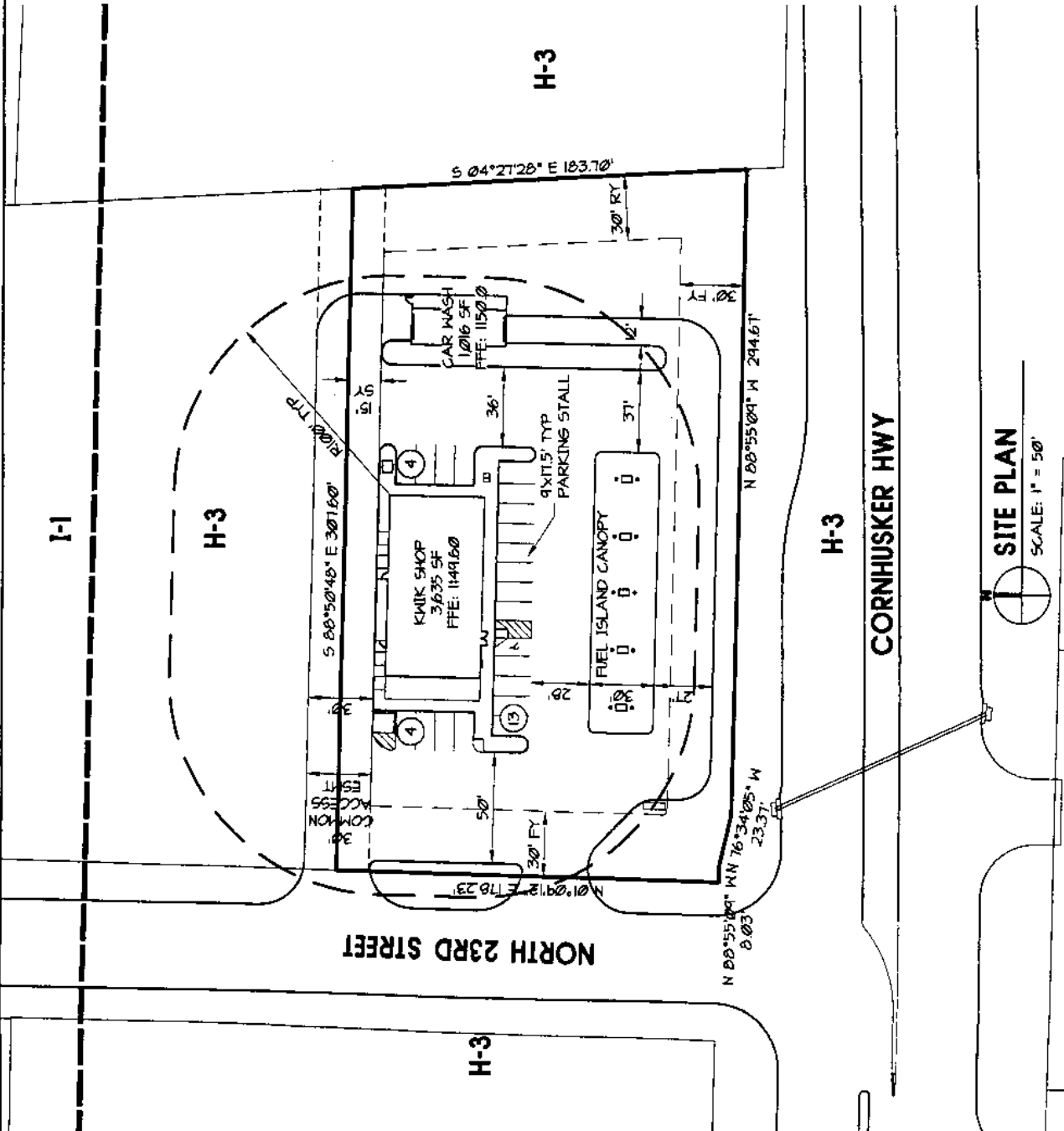
EXISTING ZONING: H-3

PARKING

21 STALLS REQUIRED
21 STALLS PROVIDED

SETBACKS

FRONT YARD: 30'
REAR YARD: 30'
SIDE YARD: 15'



CHARLES THONE
DONALD H. ERICKSON
DANIEL D. KOUKOL
WM. E. MORROW, JR.
SAM JENSEN
DANIEL B. KINNAMON
THOMAS J. GUILFOYLE
VIRGIL K. JOHNSON
CHARLES V. SEDERSTROM
CHARLES D. HUMBLE
MICHAEL C. WASHBURN
ALAN M. WOOD
WILLIAM F. AUSTIN
JOHN C. BROWN RIGG
THOMAS J. CULHANE
RICHARD J. GILLOON
SAMUEL E. CLARK
GARY L. HOFFMAN
MARK M. SCHORR
JERALD L. RAUTERKUS
WILLIAM T. FOLEY

LAW OFFICES
ERICKSON & SEDERSTROM, P.C.

A LIMITED LIABILITY ORGANIZATION

SUITE 400
301 SOUTH 13TH STREET
LINCOLN, NEBRASKA 68508-2571
TELEPHONE (402) 476-1000
FACSIMILE (402) 476-6167

WRITER'S INTERNET ADDRESS

waustin@eslaw.com

October 29, 2003

PATRICK R. GUINAN
JOHN B. MORROW
TRAVIS A. GINEST
DAVID J. TAYLOR, JR.
MICHELLE B. MILLER
TIERNAN T. SIEMS
PAUL D. HEIMANN
KRISTINE J. GATES
ANGELA PROBASCO
TRENT J. MARTINET

OF COUNSEL

DAVID C. MUSSMAN
ROLAND J. SANTONI
DAVID J. NIELSEN
DONALD B. STENBERG

OMAHA OFFICE
10310 REGENCY PARKWAY
DRIVE, SUITE 100
OMAHA, NEBRASKA 68114
(402) 397-2200

Marvin Krout, Director
City/County Planning Department
555 South 10th Street
Lincoln, NE 68508

Re: Special Use Permit Application of Kwik Shop, Inc. to Permit Sale of
Alcoholic Beverages for Consumption Off the Premises
2302 Cornhusker Highway, Lincoln, Nebraska

Dear Mr. Krout:

I am writing of behalf of my client, Kwik Shop, Inc. Kwik Shop, Inc. hereby submits its application for a special use permit pursuant to § 27.63.685 of the Lincoln Municipal Code for authority to sell alcoholic beverages off the premises at its proposed licensed premises of 2302 Cornhusker Highway in Lincoln. The property is zoned H-3 and therefore requires special use permit authorization.

The licensed premises will involve a traditional Kwik Shop layout and operation, with the general business being to provide convenience items, retail gasoline sales, and car wash facilities on a 24-hour basis. The pending liquor license application is for a Class D liquor license for consumption of alcoholic beverages off the premises.

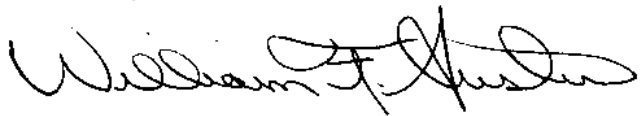
The site of the proposed special use is more than 100 feet from any day care facility, residential district, or residential use and no sound or noise source or access door will be within 150 feet of any residential district.

OCT 29 2003

Marvin Krout
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The applicant is seeking no waivers and respectfully requests your prompt review and approval of this application. If you have any questions or if any additional information is needed, please contact the undersigned.

Sincerely,

A handwritten signature in cursive script, appearing to read "William F. Austin".

William F. Austin

WFA:rjj

Enclosures

c: Beth Howard, Kwik Shop, Inc.

OCT 29 2003

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